

(B) the Committee on Foreign Affairs and the Committee on Energy and Commerce of the House of Representatives.

(2) **COMMERCE CONTROL LIST.**—The term “Commerce Control List” means the list set forth in Supplement No. 1 to part 774 of the Export Administration Regulations.

(3) **COVERED UNITED STATES ALLY OR PARTNER.**—The term “covered United States ally or partner” means a foreign country that—

(A) is an ally or partner of the United States; and

(B)(i) produces, designs, tests, manufactures, fabricates, or develops critical technologies; or

(ii) for purposes of section \_\_\_\_04, produces or manufactures semiconductor manufacturing equipment, design tools, and related technical data that—

(I) are not manufactured or produced in United States arms embargoed countries; and

(II) are used to fabricate high-end semiconductor chips with feature sizes of 45 nanometers and below that the Secretary of Commerce determines threaten the national security and foreign policy interests of the United States; and

(4) **CRITICAL TECHNOLOGIES.**—The term “critical technologies” has the meaning given the term in section 721(a)(6) of the Defense Production Act of 1950 (50 U.S.C. 4565(a)(6)).

(5) **ENTITY LIST.**—The term “Entity List” means the list maintained by the Bureau of Industry and Security and set forth in Supplement No. 4 to part 744 of the Export Administration Regulations.

(6) **EXPORT ADMINISTRATION REGULATIONS.**—The term “Export Administration Regulations” means subchapter C of chapter VII of title 15, Code of Federal Regulations.

(7) **UNITED STATES ARMS EMBARGOED COUNTRY.**—The term “United States arms embargoed country” means a country—

(A) identified in column D:5 of Country Group D in Supplement No. 1 to part 740 of the Export Administration Regulations; and

(B) determined to be a proscribed country pursuant to section 126.1 of title 22, Code of Federal Regulations.

**SA 1626.** Mr. MENENDEZ (for himself, Mr. CORNYN, Mr. WYDEN, Mr. TOOMEY, Mr. BROWN, Ms. CORTEZ MASTO, Mr. CARPER, Ms. COLLINS, Mr. GRAHAM, Mr. ROUNDS, Mr. REED, Ms. HASSAN, Ms. STABENOW, Mr. YOUNG, Mr. BENNET, Mr. WARNER, Ms. WARREN, and Mr. CASEY) submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III of division F, add the following:

**SEC. 6302. ESTABLISHMENT OF INSPECTOR GENERAL OF THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.**

(a) **DEFINITIONS.**—Section 12 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by striking “or the Director of the National Reconnaissance Office;” and inserting “the Director of the Na-

tional Reconnaissance Office; or the United States Trade Representative;” and

(2) in paragraph (2), by striking “or the National Reconnaissance Office,” and inserting “the National Reconnaissance Office, or the Office of the United States Trade Representative;”.

(b) **APPOINTMENT OF INSPECTOR GENERAL.**—Not later than 120 days after the date of the enactment of this Act, the President shall appoint an individual to serve as the Inspector General of the Office for the United States Trade Representative in accordance with section 3(a) of the Inspector General Act of 1978 (5 U.S.C. App.).

**SA 1627.** Mr. WYDEN (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**DIVISION G—COMPETES ACT**

**SEC. 7001. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This division may be cited as the “Combating Oppressive and Manipulative Policies that Endanger Trade and Economic Security Act of 2021” or the “COMPETES Act”.

(b) **TABLE OF CONTENTS.**—The table of contents for this division is as follows:

**DIVISION G—COMPETES ACT**

Sec. 7001. Short title; table of contents.

Sec. 7002. Appropriate congressional committees defined.

**TITLE I—TRADING CONSISTENT WITH AMERICAN VALUES**

**Subtitle A—Preventing Importation of Goods Produced by Forced Labor**

Sec. 7101. Investigations of allegations of goods produced by forced labor.

Sec. 7102. Preventing importation of seafood and seafood products harvested or produced using forced labor.

**Subtitle B—Addressing Censorship and Barriers to Digital Trade**

Sec. 7111. Censorship as a trade barrier.

Sec. 7112. Investigation of censorship and barriers to digital trade.

Sec. 7113. Review of discriminatory digital trade acts, policies, and practices proposed by major trading partners of the United States.

**Subtitle C—Protecting Innovators and Consumers**

Sec. 7121. Technical and legal support for addressing intellectual property rights infringement cases.

Sec. 7122. Improvement of anti-counterfeiting measures.

**Subtitle D—Ensuring a Level Playing Field**

Sec. 7131. Report on manner and extent to which the Government of the People's Republic of China exploits Hong Kong to circumvent United States laws and protections.

Sec. 7132. Assessment of overcapacity of industries in the People's Republic of China.

**TITLE II—IMPROVING TRANSPARENCY AND ADMINISTRATION OF TRADE PROGRAMS AND OVERSIGHT AND ACCOUNTABILITY OF TRADE AGENCIES**

Sec. 7201. Enhanced congressional oversight of the United States Trade Representative and the Department of Commerce.

Sec. 7202. Authority of U.S. Customs and Border Protection to consolidate, modify, or reorganize customs revenue functions.

Sec. 7203. Protection from public disclosure of personally identifiable information contained in manifests.

**TITLE III—AUTHORIZATION OF APPROPRIATIONS**

Sec. 7301. Authorization of additional appropriations.

**SEC. 7002. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**

In this division, the term “appropriate congressional committees” means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

**TITLE I—TRADING CONSISTENT WITH AMERICAN VALUES**

**Subtitle A—Preventing Importation of Goods Produced by Forced Labor**

**SEC. 7101. INVESTIGATIONS OF ALLEGATIONS OF GOODS PRODUCED BY FORCED LABOR.**

Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended—

(1) by striking “All” and inserting the following:

“(a) **IN GENERAL.**—All”;

(2) by striking “‘Forced labor’, as herein used, shall mean” and inserting the following:

“(c) **FORCED LABOR DEFINED.**—In this section, the term ‘forced labor’ means”;

(3) by inserting after subsection (a), as designated by paragraph (1), the following:

“(b) **FORCED LABOR DIVISION.**—

“(1) **IN GENERAL.**—There is established in the Office of Trade of U.S. Customs and Border Protection a Forced Labor Division, which shall—

“(A) receive and investigate allegations of goods, wares, articles, or merchandise mined, produced, or manufactured using forced labor; and

“(B) coordinate with other agencies to enforce the prohibition under subsection (a).

“(2) **PRIORITIZATION OF INVESTIGATIONS.**—In prioritizing investigations under paragraph (1)(A), the Forced Labor Division shall—

“(A) consult closely with the Bureau of International Labor Affairs of the Department of Labor and the Office to Monitor and Combat Trafficking in Persons of the Department of State; and

“(B) take into account—

“(i) the complicity of—

“(I) the government of the foreign country in which the instance of forced labor is alleged to have occurred; and

“(II) the government of any other country that has facilitated the use of forced labor in the country described in subclause (I);

“(ii) the ranking of the governments described in clause (i) in the most recent report on trafficking in persons required by section 110(b)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)(1));

“(iii) whether the good involved in the alleged instance of forced labor is included in the most recent list of goods produced by child labor or forced labor required by section 105(b)(1)(2)(C) of the Trafficking Victims Protection Reauthorization Act of 2005 (22 U.S.C. 7112(b)(2)(C)); and

“(iv) the effect taking action with respect to the alleged instance of forced labor would

have in eradicating forced labor from the supply chain of the United States.

“(3) QUARTERLY BRIEFINGS REQUIRED.—Not less frequently than every 90 days, the Forced Labor Division shall provide briefings to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding—

“(A) allegations received under paragraph (1);

“(B) the prioritization of investigations of such allegations under paragraph (2); and

“(C) progress made toward—

“(i) issuing withhold release orders for goods, wares, articles, or merchandise mined, produced, or manufactured using forced labor; and

“(ii) making findings in and closing investigations conducted under paragraph (1).”.

**SEC. 7102. PREVENTING IMPORTATION OF SEAFOOD AND SEAFOOD PRODUCTS HARVESTED OR PRODUCED USING FORCED LABOR.**

(a) DEFINITIONS.—In this section:

(1) CHILD LABOR.—The term “child labor” has the meaning given the term “worst forms of child labor” in section 507 of the Trade Act of 1974 (19 U.S.C. 2467).

(2) FORCED LABOR.—The term “forced labor” has the meaning given that term in section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

(3) HUMAN TRAFFICKING.—The term “human trafficking” has the meaning given the term “severe forms of trafficking in persons” in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

(4) SEAFOOD.—The term “seafood” means fish, shellfish, processed fish, fish meal, shellfish products, and all other forms of marine animal and plant life other than marine mammals and birds.

(5) SECRETARY.—The term “Secretary” means the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration.

(b) FORCED LABOR IN FISHING.—

(1) RULEMAKING.—Not later than one year after the date of the enactment of this Act, the Commissioner of U.S. Customs and Border Protection, in coordination with the Secretary, shall issue regulations regarding the verification of seafood imports to ensure that no seafood or seafood product harvested or produced using forced labor is entered into the United States in violation of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

(2) STRATEGY.—The Commissioner of U.S. Customs and Border Protection, in coordination with the Secretary and the Secretary of the department in which the Coast Guard is operating, shall—

(A) develop a strategy for using data collected under Seafood Import Monitoring Program to identify seafood imports at risk of being harvested or produced using forced labor; and

(B) publish information regarding the strategy developed under subparagraph (A) on the website of U.S. Customs and Border Protection.

(c) INTERNATIONAL ENGAGEMENT.—The United States Trade Representative, in coordination with the Secretary of Commerce, shall engage with interested countries regarding the development of compatible and effective seafood tracking and sustainability plans in order to—

(1) identify best practices;

(2) coordinate regarding data sharing;

(3) reduce barriers to trade in fairly grown or harvested fish; and

(4) end the trade in products that—

(A) are harvested or produced using illegal, unregulated, or unreported fishing, human trafficking, or forced labor; or

(B) pose a risk of fraud.

**Subtitle B—Addressing Censorship and Barriers to Digital Trade**

**SEC. 7111. CENSORSHIP AS A TRADE BARRIER.**

(a) IN GENERAL.—Chapter 8 of title I of the Trade Act of 1974 (19 U.S.C. 2241 et seq.) is amended by adding at the end the following:

**“SEC. 183. IDENTIFICATION OF COUNTRIES THAT DISRUPT DIGITAL TRADE.**

“(a) IN GENERAL.—Not later than 60 days after the date on which the National Trade Estimate is submitted under section 181(b), the United States Trade Representative (in this section referred to as the ‘Trade Representative’) shall identify, in accordance with subsection (b), foreign countries that are trading partners of the United States that engage in acts, policies, or practices that disrupt digital trade activities, including—

“(1) coerced censorship in their own markets or extraterritorially; and

“(2) other eCommerce or digital practices with the goal, or substantial effect, of promoting censorship or extrajudicial data access that disadvantages United States persons.

“(b) REQUIREMENTS FOR IDENTIFICATIONS.—In identifying countries under subsection (a), the Trade Representative shall identify only foreign countries that—

“(1) disrupt digital trade in a discriminatory or trade distorting manner with the goal, or substantial effect, of promoting censorship or extrajudicial data access;

“(2) deny fair and equitable market access to digital service providers that are United States persons with the goal, or substantial effect, of promoting censorship or extrajudicial data access; or

“(3) engage in coerced censorship or extrajudicial data access so as to harm the integrity of services or products provided by United States persons in the market of that country, the United States market, or other markets.

“(c) DESIGNATION OF PRIORITY FOREIGN COUNTRIES.—

“(1) IN GENERAL.—The Trade Representative shall designate as priority foreign countries the foreign countries identified under subsection (a) that—

“(A) engage in the most onerous or egregious acts, policies, or practices that have the greatest impact on the United States; and

“(B) are not negotiating or otherwise making progress to end those acts, policies, or practices.

“(2) REVOCATIONS AND ADDITIONAL IDENTIFICATIONS.—

“(A) IN GENERAL.—The Trade Representative may at any time, if information available to the Trade Representative indicates that such action is appropriate—

“(i) revoke the identification of any foreign country as a priority foreign country under paragraph (1); or

“(ii) identify any foreign country as a priority foreign country under that paragraph.

“(B) REPORT ON REASONS FOR REVOCATION.—The Trade Representative shall include in the semiannual report submitted to Congress under section 309(3) a detailed explanation of the reasons for the revocation under subparagraph (A) of the identification of any foreign country as a priority foreign country under paragraph (1) during the period covered by the report.

“(d) REFERRAL TO ATTORNEY GENERAL OR INVESTIGATION.—If the Trade Representative identifies an instance in which a foreign country designated as a priority foreign country under subsection (c) has successfully pressured an online service provider to inhibit free speech in the United States, the Trade Representative shall—

“(1) submit to Committee on Finance of the Senate and the Committee on Ways and

Means of the House of Representatives a report detailing the precise circumstances of the instance, including the actions taken by the foreign country and the online service provider;

“(2) if the online service provider is under the jurisdiction of the United States, refer the instance to the Attorney General; and

“(3) if appropriate, initiate an investigation under section 302 and impose a remedy under section 301(c).

“(e) PUBLICATION.—The Trade Representative shall publish in the Federal Register a list of foreign countries identified under subsection (a) and foreign countries designated as priority foreign countries under subsection (c) and shall make such revisions to the list as may be required by reason of action under subsection (c)(2).

“(f) ANNUAL REPORT.—Not later than 30 days after the date on which the Trade Representative submits the National Trade Estimate under section 181(b), the Trade Representative shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on actions taken under this section during the one-year period preceding that report, and the reasons for those actions, including—

“(1) a list of any foreign countries identified under subsection (a); and

“(2) a description of progress made in decreasing disruptions to digital trade.”.

(b) INVESTIGATIONS UNDER TITLE III OF THE TRADE ACT OF 1974.—Section 302(b)(2) of the Trade Act of 1974 (19 U.S.C. 2412(b)(2)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by inserting “or designated as a priority foreign country under section 183(c)” after “section 182(a)(2)”; and

(2) in subparagraph (D), by striking “by reason of subparagraph (A)” and inserting “with respect to a country identified under section 182(a)(2)”.

(c) CLERICAL AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 182 the following:

“Sec. 183. Identification of countries that disrupt digital trade.”.

**SEC. 7112. INVESTIGATION OF CENSORSHIP AND BARRIERS TO DIGITAL TRADE.**

(a) IN GENERAL.—Subsection (b) of section 301 of the Trade Act of 1974 (19 U.S.C. 2411) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) in the matter preceding subparagraph (A), as redesignated by paragraph (1), by striking “If the Trade Representative” and inserting “(1) If the Trade Representative”;

(3) by adding at the end the following:

“(2) For purposes of paragraph (1), an act, policy, or practice that is unreasonable includes any act, policy, or practice, or any combination of acts, policies, or practices, that denies fair and equitable market opportunities, including through censorship or barriers to the provision of domestic digital services, by the government of a foreign country that—

“(A) precludes competition by conferring special benefits on domestic entities or imposing discriminatory burdens on foreign entities;

“(B) provides inconsistent or unfair market access to United States persons;

“(C) requires censorship of content that originates in the United States; or

“(D) requires extrajudicial data access that disadvantages United States persons.”.

(b) AUTHORIZED ACTION.—Subsection (c) of such section is amended by adding at the end the following:

“(7) In the case of an act, policy, or practice described in paragraph (2) of subsection

(b) by the government of a foreign country that is determined to be unreasonable under paragraph (1) of that subsection, the Trade Representative may direct the blocking of access from that country to data from the United States to address the lack of reciprocal market access or parallel data flows.”.

(c) CONFORMING AMENDMENT.—Section 304(a)(1)(A)(ii) of the Trade Act of 1974 (19 U.S.C. 2414(a)(1)(A)(ii)) is amended by striking “(b)(1)” and inserting “(b)(1)(A)”.

**SEC. 7113. REVIEW OF DISCRIMINATORY DIGITAL TRADE ACTS, POLICIES, AND PRACTICES PROPOSED BY MAJOR TRADING PARTNERS OF THE UNITED STATES.**

(a) REVIEW OF PROPOSALS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the United States Trade Representative shall initiate a review regarding any discriminatory digital trade act, policy, or practice proposed by a major trading partner of the United States.

(2) ELEMENTS.—The review required by paragraph (1) shall cover any digital trade act, policy, or practice proposed by a major trading partner of the United States that, if enacted, would accord less favorable treatment to imported or cross-border digital goods and services than to like digital goods and services of national origin, including by—

(A) requiring imported or cross-border digital goods and services to meet standards developed in a process under which participation by foreign entities was limited by the major trading partner;

(B) requiring additional regulatory, reporting, or other obligations without a legitimate policy objective;

(C) requiring re-engineering or separation of integrated products without a legitimate policy objective;

(D) establishing licensing requirements dependent on the use of domestic digital services or products;

(E) requiring the sharing of data, intellectual property, trade secrets, or confidential business information in a manner accessible to competitors; or

(F) undermining privacy for consumers or users or creating serious concerns regarding the provision of sensitive data to foreign governments.

(b) DETERMINATION.—Not later than 180 days after the date of the enactment of this Act, the Trade Representative shall, pursuant to the review required under subsection (a)(1)—

(1) determine whether—

(A) the rights to which the United States is entitled under any trade agreement will be denied if a proposed digital trade act, policy, or practice described in that subsection is finalized; or

(B) any act, policy, or practice described in subsection (a)(1)(B) or (b)(1) of section 301 of the Trade Act of 1974 (19 U.S.C. 2411) will exist if a proposed digital trade act, policy, or practice described in subsection (a)(1) of this section is finalized; and

(2) brief the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the results of the review required under subsection (a)(1).

(c) NEGOTIATION WITH MAJOR TRADING PARTNERS.—If the Trade Representative makes an affirmative determination under subsection (b)(1) with respect to a digital trade act, policy, or practice described in subsection (a)(1) proposed by a major trading partner of the United States, the Trade Representative shall discuss that determination with the major trading partner, if the act, policy, or practice continues to be proposed, with the objective of eliminating the dis-

criminary aspects of the act, policy, or practice.

**Subtitle C—Protecting Innovators and Consumers**

**SEC. 7121. TECHNICAL AND LEGAL SUPPORT FOR ADDRESSING INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT CASES.**

(a) IN GENERAL.—The head of any Federal agency may provide support, as requested and appropriate, to United States persons seeking technical, legal, or other support in addressing intellectual property rights infringement cases regarding the People's Republic of China.

(b) UNITED STATES PERSON DEFINED.—In this section, the term “United States person” means—

(1) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

(2) an entity organized under the laws of the United States or of any jurisdiction within the United States, including a foreign branch of such an entity.

**SEC. 7122. IMPROVEMENT OF ANTI-COUNTERFEITING MEASURES.**

(a) INCREASED INSPECTIONS.—

(1) REPORT ON SEIZURES OF COUNTERFEIT GOODS.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Commissioner of U.S. Customs and Border Protection shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on seizures by U.S. Customs and Border Protection of counterfeit goods during the one-year period preceding submission of the report, including the number of such seizures disaggregated by category of good, source country, and mode of transport.

(2) INCREASED INSPECTIONS OF GOODS FROM CERTAIN COUNTRIES.—The Commissioner shall increase inspections of imports of goods from each source country identified in the report required by paragraph (1) as one of the top source countries of counterfeit goods, as determined by the Commissioner.

(b) PUBLICATION OF CRITERIA FOR NOTORIOUS MARKETS LIST.—Not later than 2 years after the date of the enactment of this Act, and not less frequently than every 5 years thereafter, the United States Trade Representative shall publish in the Federal Register criteria for determining that a market is a notorious market for purposes of inclusion of that market in the list developed by the Trade Representative pursuant to section 182(e) of the Trade Act of 1974 (19 U.S.C. 2242(e)) (commonly known as the “Notorious Markets List”).

(c) PUBLICATION OF ACTION PLANS.—

(1) IN GENERAL.—Not less frequently than annually, the Trade Representative shall publish on an publicly available internet website of the Office of the United States Trade Representative—

(A) the action plans for priority watch list countries under section 182(g)(1) of the Trade Act of 1974 (19 U.S.C. 2242(g)(1)) for that year; and

(B) for each priority watch list country with respect to which such an action plan is prepared, an assessment of the progress of the country in meeting the benchmarks described in subparagraph (D) of that section.

(2) PUBLIC HEARINGS.—Not less frequently than annually, the Trade Representative shall hold public hearings to track the progress of priority watch list countries in meeting the benchmarks described in subparagraph (D) of section 182(g)(1) of the Trade Act of 1974 (19 U.S.C. 2242(g)(1)) included in their action plans under that section.

(3) PRIORITY WATCH LIST COUNTRY DEFINED.—In this subsection, the term “pri-

ority watch list country” means a country identified under section 182(a)(2) of the Trade Act of 1974 (19 U.S.C. 2242(a)(2)).

(d) SHARING OF INFORMATION WITH RESPECT TO SUSPECTED VIOLATIONS OF INTELLECTUAL PROPERTY RIGHTS.—Section 628A of the Tariff Act of 1930 (19 U.S.C. 1628a) is amended—

(1) in subsection (a)(1), by inserting “, packing materials, shipping containers,” after “its packaging” each place it appears; and

(2) in subsection (b)—

(A) in paragraph (3), by striking “; and” and inserting a semicolon;

(B) in paragraph (4), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(5) any other party with an interest in the merchandise, as determined appropriate by the Commissioner.”.

**Subtitle D—Ensuring a Level Playing Field**

**SEC. 7131. REPORT ON MANNER AND EXTENT TO WHICH THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA EXPLOITS HONG KONG TO CIRCUMVENT UNITED STATES LAWS AND PROTECTIONS.**

Title III of the United States–Hong Kong Policy Act of 1992 (22 U.S.C. 5731 et seq.) is amended by adding at the end the following:

**“SEC. 303. REPORT ON MANNER AND EXTENT TO WHICH THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA EXPLOITS HONG KONG TO CIRCUMVENT UNITED STATES LAWS AND PROTECTIONS.**

“(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary of State and the United States Trade Representative shall jointly submit to the appropriate congressional committees a report on the manner and extent to which the Government of the People's Republic of China uses the status of Hong Kong to circumvent the laws and protections of the United States.

“(b) ELEMENTS.—The report required by subsection (a) shall include the following:

“(1) In consultation with the Secretary of Commerce, the Secretary of Homeland Security, and the Director of National Intelligence—

“(A) an assessment of how the Government of the People's Republic of China uses Hong Kong to circumvent export controls of the United States; and

“(B) a list of all significant incidents in which the Government of the People's Republic of China used Hong Kong to circumvent those controls during the reporting period.

“(2) In consultation with the Secretary of the Treasury and the Secretary of Commerce—

“(A) an assessment of how the Government of the People's Republic of China uses Hong Kong to circumvent antidumping or countervailing duties and duties under section 301 of the Trade Act of 1974 (19 U.S.C. 2411) on merchandise exported to the United States from the People's Republic of China; and

“(B) a list of all significant incidents in which the Government of the People's Republic of China used Hong Kong to circumvent those duties during the reporting period.

“(3) In consultation with the Secretary of the Treasury, the Secretary of Homeland Security, and the Director of National Intelligence—

“(A) an assessment of how the Government of the People's Republic of China uses Hong Kong to circumvent sanctions imposed by the United States or pursuant to multilateral regimes; and

“(B) a list of all significant incidents in which the Government of the People’s Republic of China used Hong Kong to circumvent those sanctions during the reporting period.

“(4) In consultation with the Secretary of Homeland Security and the Director of National Intelligence—

“(A) an assessment of how the Government of the People’s Republic of China uses formal or informal means to extradite or coercively move foreign nationals, including United States persons, from Hong Kong to the People’s Republic of China; and

“(B) a list of foreign nationals, including United States persons, who have been formally or informally extradited or coercively moved from Hong Kong to the People’s Republic of China.

“(5) In consultation with the Secretary of Defense, the Director of National Intelligence, and the Director of Homeland Security—

“(A) an assessment of how the intelligence, security, and law enforcement agencies of the Government of the People’s Republic of China, including the Ministry of State Security, the Ministry of Public Security, and the People’s Armed Police, use the Hong Kong Security Bureau and other security agencies in Hong Kong to conduct espionage on foreign nationals, including United States persons, conduct influence operations, or violate civil liberties guaranteed under the laws of Hong Kong; and

“(B) a list of all significant incidents of such espionage, influence operations, or violations of civil liberties during the reporting period.

“(c) FORM OF REPORT; AVAILABILITY.—

“(1) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified index.

“(2) AVAILABILITY.—The unclassified portion of the report required by subsection (a) shall be posted on a publicly available internet website of the Department of State.

“(d) DEFINITIONS.—In this section:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

“(A) the Committee on Foreign Relations, the Committee on Banking, Housing, and Urban Affairs, the Committee on Finance, and the Select Committee on Intelligence of the Senate; and

“(B) the Committee on Foreign Affairs, the Committee on Financial Services, the Permanent Select Committee on Intelligence, and the Committee on Ways and Means of the House of Representatives.

“(2) FOREIGN NATIONAL.—The term ‘foreign national’ means a person that is neither—

“(A) an individual who is a citizen or national of the People’s Republic of China; or

“(B) an entity organized under the laws of the People’s Republic of China or of a jurisdiction within the People’s Republic of China.

“(3) REPORTING PERIOD.—The term ‘reporting period’ means the 5-year period preceding submission of the report required by subsection (a).

“(4) UNITED STATES PERSON.—The term ‘United States person’ means—

“(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

“(B) an entity organized under the laws of the United States or of any jurisdiction within the United States, including a foreign branch of such an entity.”.

#### **SEC. 7132. ASSESSMENT OF OVERCAPACITY OF INDUSTRIES IN THE PEOPLE’S REPUBLIC OF CHINA.**

(a) REPORT ON OVERCAPACITY.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act,

and annually thereafter, the United States Trade Representative, in consultation with the Secretary of Commerce, shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on overcapacity of industries in the People’s Republic of China.

(2) ELEMENTS.—The report required by paragraph (1) shall include—

(A) a determination on whether overcapacity resulting from industrial policy exists in any major industry in the People’s Republic of China; and

(B) a description of the effects of that overcapacity on industry in the United States.

(b) BRIEFING.—Not later than 180 days after a positive determination of overcapacity under subsection (a)(2)(A), the Trade Representative shall brief the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the steps taken to address that overcapacity, which may include—

(1) discussions with allies;

(2) negotiations at an appropriate multilateral institution to which the United States is a party; and

(3) bilateral negotiations with the People’s Republic of China.

(c) DETERMINATION OF SUBSTANTIAL REDUCTION.—Not later than each of one year and two years after a briefing under subsection (b) with respect to a positive determination of overcapacity under subsection (a)(2)(A), the Trade Representative shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing a determination of whether the steps taken to address that overcapacity are likely to lead to a substantive reduction in that overcapacity.

#### **TITLE II—IMPROVING TRANSPARENCY AND ADMINISTRATION OF TRADE PROGRAMS AND OVERSIGHT AND ACCOUNTABILITY OF TRADE AGENCIES**

##### **SEC. 7201. ENHANCED CONGRESSIONAL OVERSIGHT OF THE UNITED STATES TRADE REPRESENTATIVE AND THE DEPARTMENT OF COMMERCE.**

(a) UNITED STATES TRADE REPRESENTATIVE.—

(1) PEOPLE’S REPUBLIC OF CHINA.—The United States Trade Representative shall submit to the appropriate congressional committees—

(A) not later than September 1, 2021, and every 180 days thereafter for the following 2 years, a confidential report describing—

(i) the implementation of the Economic and Trade Agreement Between the Government of the United States of America and the Government of China, dated January 15, 2020, including an identification of those provisions in the agreement that have yet to be implemented; and

(ii) progress toward addressing the issues identified in the report prepared by the Trade Representative dated March 22, 2018, and titled, “Findings of the Investigation into China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation under Section 301 of the Trade Act of 1974”; and

(B) the text of any initial proposal for an executive agreement or memorandum of understanding with the People’s Republic of China intended to resolve an investigation with respect to duties under section 301 of the Trade Act of 1974 (19 U.S.C. 2411) not later than 3 business days before submitting the proposal to any official of the People’s Republic of China.

(2) TRADE ENFORCEMENT TRUST FUND.—Section 611(e) of the Trade Facilitation and Trade Enforcement Act of 2015 (19 U.S.C. 4405(e)) is amended—

(A) in the subsection heading, by striking “REPORT” and inserting “REPORTS”;

(B) by striking “Not later than” and inserting “(1) REPORT AFTER ENTRY INTO FORCE.—Not later than”; and

(C) by adding at the end the following:

“(2) REPORT ON USE OF FUNDS.—Not later than July 1 of each year, the Trade Representative shall submit to Congress a report that identifies the use of any funds from the Trust Fund during the one-year period preceding the date of the report, including an identification of the specific enforcement matter for which the funds were used.”.

(b) DEPARTMENT OF COMMERCE.—

(1) ANTIDUMPING OR COUNTERVAILING DUTIES.—

(A) IN GENERAL.—Not later than July 1 of each year, the Secretary of Commerce shall submit to the appropriate congressional committees a report that identifies any antidumping or countervailing duty determination under title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) that in the year preceding the report was subject to a remand pursuant to an order from the United States Court of International Trade or a Chapter 10 Panel under the USMCA or that was found to be inconsistent with the obligations of the United States with the World Trade Organization.

(B) ELEMENTS.—With respect to each determination under subparagraph (A), the Secretary of Commerce shall indicate—

(i) the specific statutory requirement that the Court of International Trade or the Chapter 10 Panel found that the Secretary failed to observe or the specific provision of the WTO Agreement that a dispute settlement panel or Appellate Body found to have been breached by the determination; and

(ii) how and when the Secretary intends to comply with the order or obligations described in subparagraph (A), as the case may be.

(2) NOTICE OF SUSPENSION OF ANTIDUMPING DUTY INVESTIGATION.—Section 734(b) of the Tariff Act of 1930 (19 U.S.C. 1673c(b)) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B) and moving those two subparagraphs, as so redesignated, two ems to the right;

(B) by striking “The administering authority” and inserting “(1) IN GENERAL.—The administering authority”; and

(C) by adding at the end the following:

“(2) NOTIFICATION TO CONGRESS.—The administering authority shall submit to Congress the text of any proposal to suspend an investigation under paragraph (1) not later than 3 business days before submitting the proposal to an interested party.”.

(c) DEFINITIONS.—In this section:

(1) APPELLATE BODY; DISPUTE SETTLEMENT PANEL.—the terms “Appellate Body” and “dispute settlement panel” have the meanings given those terms in section 121 of the Uruguay Round Agreements Act (19 U.S.C. 3531).

(2) USMCA.—The term “USMCA” means the Agreement between the United States of America, the United Mexican States, and Canada, which is—

(A) attached as an Annex to the Protocol Replacing the North American Free Trade Agreement with the Agreement between the United States of America, the United Mexican States, and Canada, done at Buenos Aires on November 30, 2018, as amended by the Protocol of Amendment to the Agreement between the United States of America, the United Mexican States, and Canada, done at Mexico City on December 10, 2019; and

(B) approved by Congress under section 101(a)(1) of the United States–Mexico–Canada Agreement Implementation Act (19 U.S.C. 4511(a)).

(3) WTO AGREEMENT.—The term “WTO Agreement” has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501(9)).

**SEC. 7202. AUTHORITY OF U.S. CUSTOMS AND BORDER PROTECTION TO CONSOLIDATE, MODIFY, OR REORGANIZE CUSTOMS REVENUE FUNCTIONS.**

(a) IN GENERAL.—Section 412 of the Homeland Security Act of 2002 (6 U.S.C. 212(b)) is amended—

- (1) in subsection (b)—
- (A) in paragraph (1)—
- (i) by striking “consolidate, discontinue,” and inserting “discontinue”; and
- (ii) by inserting after “reduce the staffing level” the following: “below the optimal staffing level determined in the most recent Resource Allocation Model required by section 301(h) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(h))”; and

(B) in paragraph (2), by inserting “, National Account Managers” after “Financial Systems Specialists”; and

(2) by adding at the end the following:

“(d) AUTHORITY TO CONSOLIDATE, MODIFY, OR REORGANIZE CUSTOMS REVENUE FUNCTIONS.—

“(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection may, subject to subsection (b), consolidate, modify, or reorganize customs revenue functions delegated to the Commissioner under subsection (a), including by adding such functions to existing positions or establishing new or modifying existing job series, grades, titles, or classifications for personnel, and associated support staff, performing such functions.

“(2) POSITION CLASSIFICATION STANDARDS.—At the request of the Commissioner, the Director of the Office of Personnel Management shall establish new position classification standards for any new positions established by the Commissioner under paragraph (1).”.

(b) TECHNICAL CORRECTION.—Section 412(a)(1) of the Homeland Security Act of 2002 (6 U.S.C. 212(a)(1)) is amended by striking “403(a)(1)” and inserting “403(1)”.

**SEC. 7203. PROTECTION FROM PUBLIC DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN MANIFESTS.**

(a) IN GENERAL.—Paragraph (2) of section 431(c) of the Tariff Act of 1930 (19 U.S.C. 1431(c)) is amended to read as follows:

“(2)(A) The information listed in paragraph (1) shall not be available for public disclosure if—

“(i) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or

“(ii) the information is exempt under the provisions of section 552(b)(1) of title 5, United States Code.

“(B) The Secretary shall ensure that any personally identifiable information, including Social Security account numbers and passport numbers, is removed from any manifest signed, produced, delivered, or electronically transmitted under this section before access to the manifest is provided to the public.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 30 days after the date of the enactment of this Act.

**TITLE III—AUTHORIZATION OF APPROPRIATIONS**

**SEC. 7301. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated to the head of each agency

specified in subsection (b) such sums as may be necessary for the agency to carry out the responsibilities of the agency under this title.

(b) AGENCIES SPECIFIED.—The agencies specified in this subsection are the following:

- (1) The Office of the United States Trade Representative.
- (2) The Department of Commerce.
- (3) The Department of the Treasury.
- (4) U.S. Customs and Border Protection.

**SA 1628.** Mr. DURBIN (for himself and Mr. CASSIDY) submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title I of division F, insert the following:

**SEC. 61. DOMESTIC PPE PROCUREMENT PILOT PROGRAM.**

(a) IN GENERAL.—Section 319F-2(a) of the Public Health Service Act (42 U.S.C. 247d-6b(a)), as amended by section 4153(f)(3), is further amended by adding at the end the following:

“(7) DOMESTIC PROCUREMENT PILOT PROGRAM.—

“(A) IN GENERAL.—

“(1) REQUIREMENT TO PURCHASE DOMESTIC END PRODUCTS.—For the period of fiscal years 2022 through 2026, subject to clause (ii), the Secretary shall ensure that not less than 40 percent of amounts made available under this section for purposes of procuring covered testing equipment and personal protective equipment for the stockpile under paragraph (1) are allocated to procurement of such equipment that is a domestic end product (as defined in part 25.003 of the Federal Acquisition Regulations maintained under section 1303(a)(1) of title 41, United States Code (or any successor regulations)) manufactured by an entity or entities that enter into a contract with the Secretary to sell such equipment to the Secretary for such purpose.

“(ii) CLARIFICATIONS.—In carrying out the requirement under clause (i), the following shall apply:

“(I) The Secretary is encouraged to exceed, to the greatest extent practicable, the procurement threshold of 40 percent domestic end products for such covered testing equipment and personal protective equipment described in clause (i), provided that such supply exists and the cost of procuring equipment that is a domestic end product is not unreasonably high compared to the cost of procuring equipment that is not a domestic end product.

“(II) In the event that there is insufficient domestic end product available for procurement to meet the needs for certain covered testing equipment and personal protective equipment for the stockpile under paragraph (1) while satisfying the requirement of clause (i), or that the cost of procuring equipment that is a domestic end product in quantities required under clause (i) would be unreasonably high compared to other equipment that is not a domestic end product, clause (i) shall be applied with respect to the applicable equipment only to the extent that such

equipment that is a domestic end product is available and to the extent that the cost is not unreasonable, as applicable. In the case that the requirement under clause (i) is applied only to such an extent as described in the preceding sentence, in procuring such portion of such equipment that are not domestic end products, as applicable, the Secretary shall prioritize procurement of equipment that is manufactured in a country in North, Central, or South America with which the United States has a free trade agreement in effect.

“(B) SALE OR TRANSFER OF PPE.—

“(i) IN GENERAL.—With respect to any covered testing equipment and personal protective equipment in the stockpile under paragraph (1), the Secretary—

“(I) shall assess the stock of such equipment on a regular basis, and not less frequently than—

“(aa) twice per year, other than during periods described in item (bb); or

“(bb) monthly, during any period in which the Secretary determines it likely that such equipment will be deployed, such as during a public health emergency;

“(II) shall communicate to manufacturers and suppliers of such equipment to the stockpile under paragraph (1) if an assessment under subclause (I) indicates that there will be an increased need for such equipment;

“(III) may, at appropriate intervals and with respect to any such equipment in such stockpile—

“(aa) transfer such equipment, in accordance with the needs of agencies, divisions, departments, or States, to—

“(AA) other agencies or operating divisions within the Department of Health and Human Services;

“(BB) the Department of Defense, the Department of Homeland Security, the Department of Veterans Affairs, or any other Federal agency or department; or

“(CC) State governments, including State public health, emergency management, and human services agencies; or

“(bb) sell such equipment to health care entities at a competitive price, as determined by the Secretary, taking into account the current market pricing for the applicable equipment and the operational budget for the stockpile;

“(IV) shall, prior to any sale of such equipment in the commercial market, including a sale described in subclause (III)(bb), provide adequate notification to relevant manufacturers, distributors, or other appropriate entities in order to mitigate any commercial disruption from such sale;

“(V) may enter into a contract or cooperative agreement with an entity that has expertise in supply chain logistics and management to carry out the activities described in this subparagraph.

“(ii) GROUP PURCHASING ORGANIZATIONS AND MEDICAL PRODUCT DISTRIBUTORS.—In making sales under clause (i)(II)(bb), the Secretary may transact with group purchasing organizations and medical product distributors to facilitate timeliness, logistical assistance, and appropriate pricing, and to determine appropriate amounts of covered testing equipment and personal protective equipment for applicable health care entities.

“(iii) COMPENSATION TO HHS.—

“(I) TRANSFERS FROM OTHER AGENCIES.—A Federal agency or State government receiving equipment as described in clause (i)(III)(aa) shall transfer to the Secretary, for purposes of procuring covered testing equipment and personal protective equipment for the stockpile under paragraph (1), such amounts as the Secretary and head of the applicable agency or State government determine to be fair compensation for such